

UNITED STATES OF AMERICA,
PLAINTIFF,
vs.
MYKELL REENEESHA UNEEK HAWES,
DEFENDANT.

FOR THE PLAINTIFF:
Kenneth L. Parker
United States Attorney
By: Peter K. Glenn-Applegate
Assistant United States Attorney
303 Marconi Boulevard, 2nd Floor
Columbus, Ohio 43215

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Allison A. Kimmel, FAPR, RDR, CRR, CRC
Federal Official Court Reporter
85 Marconi Boulevard
Columbus, Ohio 43215
614.719.3225

Friday Afternoon Session

June 24, 2022

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The following proceeding was held in chambers via telephone:

THE COURT: This is Judge Watson. Do we have both of you on?

MR. GLENN-APPLEGATE: Pete Glenn-Applegate here.

THE COURT: Hi, Pete. W. Jeffrey, are you on yet? Hearing none.

(Discussion off the record.)

[Phone chimes.]

THE COURT: Jeff, is that you?

MR. MOORE: It is, Judge.

THE COURT: Okay. I've got Allison with us. So when you speak, just make sure you identify yourselves for the record.

MR. MOORE: Sure will.

THE COURT: Okay. So I concluded the last hearing saying that I needed additional time to review the transcript in the change of plea proceeding before Judge King.

MR. MOORE: Yes.

THE COURT: I've done that. I understand -- I'm not sure what I understand here, but in any event, I know what the documents say at this point.

MR. MOORE: I think Peter and I may have resolved

1 this.

2 THE COURT: Oh.

3 MR. MOORE: Am I correct, Pete?

4 MR. GLENN-APPLEGATE: I think so, Jeff. Let's --
5 let's -- why don't you say what -- what you think, and I'll see
6 if -- if that squares with -- with what I think our agreement
7 is.

8 MR. MOORE: As I said in the hearing the other day, my
9 client may be responsible for some amount of meth, but
10 certainly not the amount that I'm reading about in the report,
11 and -- this is Jeff Moore, by the way, so -- sorry -- and I'm
12 willing to agree that she's responsible for three kilos.

13 I am not willing to agree that it's -- what is the --
14 the report says --

15 THE COURT: 3,114 grams?

16 MR. MOORE: Yes, or 35.25 pounds of meth. I cannot
17 agree to that because I know she wasn't involved in all that.

18 MR. GLENN-APPLEGATE: So, Your Honor, let me speak to
19 that. So my primary concern about Mr. Moore's motion was that
20 some of the representation seems to conflict with the signed
21 Statement of Facts and what Ms. Hawes agreed to in her guilty
22 plea hearing.

23 THE COURT: Right.

24 MR. GLENN-APPLEGATE: Jeff and I have spoken -- and,
25 you know, in the Statement of Facts, she agrees that she was

involved in the distribution of at least 3,114 grams of ice --

THE COURT: Right.

MR. GLENN-APPLEGATE: -- which the PSR attributes to her.

The PSR also attributes in paragraphs 30 and 31 additional shipments that the PSR finds contain meth and attributes all of that to her, and it's my understanding that now Mr. Moore is -- opposes attributing that to her.

I have -- I think Mr. Moore is entirely free to oppose that. I'm not saying that I agree with him, but him opposing those additional shipments would still be consistent with the plea agreement and the Statement of Facts.

The plea agreement and the Statement of Facts would allow him and his client to oppose attributing that additional meth, which is -- if you give one more moment here --

THE COURT: It's 8.75 -- 8.75 and 8.8 pounds in paragraph 30, and it is 8.3 and 9.4 pounds in 31.

MR. GLENN-APPLEGATE: That's correct.

THE COURT: Those are total package weights, so, you know, we're -- we're -- go ahead.

MR. GLENN-APPLEGATE: So -- so, I think it is -- it is fair for him and his client to -- to dispute that should be attributed to her under the relevant conduct principles.

My primary concern was that the motion seems to go farther and also oppose the 3,114 grams of ice in paragraph 29,

1 which Ms. Hawes agrees to in those Statement of Facts attached
2 to the plea agreement.

3 What I would propose is -- because now I understand the
4 claim by Mr. Moore and his client to be only about additional
5 things above and beyond the Statement of Facts, I think the
6 plea is still good.

7 We don't need to worry about a withdrawal or breach of
8 the plea agreement.

9 Here, we're just -- you know, in what I would describe
10 as kind of an ordinary dispute in drug cases about whether
11 anything additional should be attributed to her, and I think
12 the parties can manage that through the ordinary objections
13 process and in our sentencing memos without further involvement
14 of the Court prior to sentencing.

15 THE COURT: Jeff, you agree with that?

16 MR. MOORE: I do.

17 THE COURT: So the way -- the way I read this, she
18 "guidelines" at life.

19 MR. GLENN-APPLEGATE: Under the -- under the
20 calculations of the initial PSR, that is correct.

21 THE COURT: And there's a -- there is a 20-year
22 statutory max.

23 MR. MOORE: That's correct. And part of the reason --

24 THE COURT: So she gets no more than 240 months,
25 right?

1 MR. MOORE: It's because of the -- of attributing
2 everything in the conspiracy to her.

3 And this guy had -- honestly, he had three women working
4 for him, and each one did their own thing. My gal was just one
5 of three. She had nothing to do with their business.

6 MR. GLENN-APPLEGATE: And, Your Honor, without getting
7 too far down the road before addressing sentencing, there may
8 be reasons why Ms. Hawes' guidelines range could be reduced,
9 and why under the 3553(a) factors, she may be eligible for
10 something below the guidelines range.

11 I think, for the purpose of today's hearing, which is
12 simply, you know -- I think was really about clarifying what
13 Ms. Hawes agreed to at her change of plea hearing, I think the
14 parties are in agreement, which is that she had agreed to the
15 amount of Oxycodone, and she agreed to 3,114 grams of ice, and
16 the rest of it can be left for ordinary sentencing proceedings.

17 THE COURT: All right. And can you guys put that in
18 the form of a joint memo to the probation officer for their
19 consideration in preparing the final report?

20 MR. GLENN-APPLEGATE: Yes. And, Jeff, I'll prepare a
21 draft and get it over to you by Monday.

22 MR. MOORE: That would be fine.

23 THE COURT: All right. Thank you, gentlemen. I
24 appreciate it very much.

25 MR. GLENN-APPLEGATE: Thanks for your time,

1 Your Honor.

2 THE COURT: Have a nice weekend.

3 (Proceedings concluded at 3:09 p.m.)

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5 C E R T I F I C A T E

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7 I, Allison A. Kimmel, do hereby certify that the
8 foregoing is a true and correct transcript of the proceedings
9 before the Honorable Michael H. Watson, Judge, in the United
10 States District Court, Southern District of Ohio, Eastern
11 Division, on the date indicated, reported by me in shorthand
12 and transcribed by me or under my supervision.

13
14
15 s/Allison A. Kimmel
16 Allison A. Kimmel, FAPR, RDR, CRR, CRC
17 Official Federal Court Reporter
18 September 25, 2023
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*Allison A. Kimmel, FAPR, RDR, CRR, CRC
Federal Official Court Reporter
85 Marconi Boulevard
Columbus, Ohio 43215
614.719.3225*